

Featured Professionals

Matthew T. Boos

Ryan C. Young

Related Services

Investment Management

FINRA Announces 2018 Regulatory and Examination Priorities

Legal Update

01.22.2018

By Ryan C. Young and Matthew T. Boos

The Financial Industry Regulatory Authority (FINRA) published its 2018 Annual Regulatory and Examination Priorities Letter on January 8, 2018. The letter identifies key areas FINRA will focus on in 2018 and encourages broker-dealers to use the letter as a resource to enhance their compliance, supervisory and risk management programs, and to prepare for their FINRA examinations.

The letter includes five broad categories: Fraud, High Risk-Firms and Brokers, Operational and Financial Risks, Sales Practice Risks, and Market Integrity.

Fraud

The letter identifies a number of fraudulent activities FINRA will focus on in the coming year, including insider trading, microcap pump-and-dump schemes, issuer fraud and Ponzi schemes.

Senior investors are a group that will see particular focus in 2018, and FINRA encourages firms to utilize the tools provided in new FINRA Rule 2165 and amendment to FINRA Rule 4512 to protect senior investors. (Those rules are addressed in detail in a previous article from the Investment Management Group, which can be found [here](#).)

Firms are also encouraged to continue monitoring their brokers' activities in microcap stocks and evaluate internal policies and training regarding permissible communications and interactions with investors concerning microcap stocks.

High-risk Firms and Brokers

In 2018, FINRA will continue its focus on high-risk firms and brokers. Specifically, FINRA will focus on hiring and supervisory practices for high-risk brokers, unsophisticated or senior investors with a focus on recommendations for speculative or complex products, selling away activities (i.e., where a registered representative raises funds from investors for approved private securities transactions away from

their firm) and firms' controls regarding outside business activities of registered persons.

Operational and Financial Risks

FINRA will continue to focus on cybersecurity by evaluating the effectiveness of firms' cybersecurity programs and technology governance procedures. Additionally, FINRA will be evaluating firms' business continuity planning under FINRA Rule 4370 related to a firms' plan in the event of an emergency or business disruption. Other financial risks identified include money laundering, liquidity risks and short sales.

Sales Practice Risks

For the first time, FINRA has identified digital assets (i.e., cryptocurrencies) and initial coin offerings (ICOs) as an area that will see increased vigilance in enforcement and regulatory compliance. In the area of sales practice risks, FINRA will also continue to focus on more run-of-the-mill issues such as suitability and use of margin.

Market Integrity

In the area of market integrity, FINRA will continue to enforce and evaluate firm compliance with the Best Execution Rule, Market Access Rule (SEA Rule 15c3-5) and rules governing options (SEA Rule 14e-4). Additionally, FINRA will monitor compliance with rules related to short sales (Rule 201 of Regulation SHO), firms' alternative trading system surveillance and accurate and timely reporting of TRACE-eligible securities.

For More Information

To discuss any topic related to these regulatory and examination priorities, please contact a member of the Investment Management Group or visit us online at www.fredlaw.com.